



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
Sustainable Fisheries Division F/NWR2  
7600 Sand Point Way N.E., Bldg. 1  
Seattle, WA 98115-0070

DEC 14 2007

Limited Entry Permit Holders and Vessel Owners:

This letter is to inform you about new regulatory requirements related to the Vessel Monitoring System (VMS) that will become effective on February 4, 2008 (72 FR 69162; December 7, 2007). Although the new regulatory requirements primarily affect vessels participating in the open access fisheries, some provisions also affect participants in the limited entry groundfish fisheries. A copy of the *Federal Register* notice for the new rulemaking is enclosed. The following is a summary of the new requirements that affect limited entry vessels:

#### VMS Activation Reports

Under the new regulations, activation reports must be submitted at least 72 hours prior to leaving port on a trip in which VMS is required. The vessel owner or operator must receive confirmation from NMFS Office for Law Enforcement (OLE) that the VMS transmissions are being received before the vessel may participate in any fishery requiring VMS.

#### Transferring Ownership of VMS Units

As with the current regulations, ownership of the VMS unit may be transferred from one vessel owner to another. However, the requirements for transferring ownership under the new regulations are more stringent and will require the following documents to be provided to NMFS OLE: a new activation report, which identifies that the transceiver unit was previously registered to another vessel; a notarized bill of sale showing proof of ownership of the VMS transceiver unit; documentation from the communications service provider showing proof that the service agreement for the previous vessel was terminated and that a service agreement was established for the new vessel.

#### Declaration Reporting Requirements

Any vessel registered to a limited entry permit must provide NMFS OLE with a declaration report before the vessel leaves port on a trip in which the vessel is used to fish in waters between 0 and 200 nm offshore of Washington, Oregon, or California. In other words, NMFS OLE must have a valid declaration report on file for every trip (you do not need to submit a declaration report for each trip if your gear type remains unchanged) that your vessel makes. This is a change from the current requirements which only require a declaration report be submitted for trips that occur within a Rockfish Conservation Area (RCA) when the vessel is used with a gear that is allowed to be used within the RCA.



The vessel operator must send a new declaration report before leaving port on a trip in which a gear type that is different from the gear type most recently declared for the vessel will be used. A declaration report will be valid until another declaration report revising the existing gear declaration is received by NMFS OLE. A vessel cannot be used to fish with a gear other than a gear type declared by the vessel. Several new gear groups have been added to the VMS gear group declaration list. The revised gear groups are listed in the enclosed *Federal Register* notice on page 69169.

Vessels using non-trawl gear may declare more than one gear type; however, vessels using trawl gear may only declare one of the trawl gear types on any trip and may not declare non-trawl gear on the same trip in which trawl gear is declared. This change was necessary to use VMS to monitor Essential Fish Habitat (EFH) area restrictions which are gear specific.

### VMS Exemptions

Current regulations contain provisions that allow vessels to be exempted from the requirement to operate the mobile transceiver unit continuously 24 hours a day throughout the fishing year when a valid exemption report is received by NMFS OLE and when the vessel is in compliance with all conditions and requirements of a specific VMS exemption. Two new exemptions affect limited entry vessels in addition to the existing "outside areas exemption" (when the vessel will be operating seaward of the EEZ off Washington, Oregon, or California continuously for more than 7 consecutive days) and the "haul out exemption" (when it is anticipated that a vessel will be continuously out of the water for more than 7 consecutive days). The "emergency exemption" allows a vessel to be exempted from VMS provisions in emergency situations that are beyond the vessel owner's control. The "permit transfer exemption" allows a vessel to be exempted if the limited entry permit has been transferred from a vessel (including permits placed into "unidentified" status) and the vessel is not used to fish in state or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California (0-200 nm offshore) for the remainder of the fishing year.

Procedures for submission and cancellation of exemption reports remains the same; however, new time periods in which submissions must be received have been specified in the new regulations. Emergency exemption requests must be submitted in writing within 72 hours from when the incident occurred. Initial contact for an emergency exemption must be made with NMFS OLE not more than 24 hours after the time that an emergency situation occurred in which VMS transmissions were disrupted and followed by a written emergency exemption request within 72 hours from when the incident occurred. If the emergency situation upon which an emergency exemption is based is resolved before the exemption expires, an exemption cancellation must be received by NMFS at least 2 hours before the vessel resumes fishing.

Submission methods for exemption requests other than emergency exemption requests, may include email, facsimile, or telephone. For any other exemption report to be valid, it must be received by NMFS at least 2 hours and not more than 24 hours before the

exempted activities. An exemption report is valid until NMFS receives a report canceling the exemption. An exemption cancellation must be received at least 2 hours before the vessel re-enters the EEZ following an outside areas exemption; at least 2 hours before the vessel is placed back in the water following a haul out exemption, at least 2 hours before the vessel resumes fishing for any species of fish in state or Federal waters off the States of Washington, Oregon, or California after it has received a permit transfer exemption. If a vessel is required to submit an activation report before returning to fish, the activation report may substitute for the exemption cancellation.

#### Continuous Transit

For clarification, a definition for continuous transit has been added to the regulations. Continuous transit or transiting means that a fishing vessel crosses a groundfish conservation area or EFH conservation area on a constant heading, along a continuous straight line course, while making way by means of a source of power at all times, other than drifting by means of the prevailing water current or weather conditions.

#### Gear Stowage

Current regulations contain gear stowage requirements for trawl vessels transiting RCAs and the Cowcod Conservation Areas (CCAs). In addition, gear stowage requirements have been added for non-trawl vessels registered to a limited entry permit with longline and/or trap gear onboard in an applicable RCA or CCA. Under the new regulations, limited entry non-trawl vessels may transit through the non-trawl RCA, with or without groundfish on board, provided all groundfish non-trawl gear is stowed either: below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all lines, so that it is rendered unusable for fishing.

#### Essential Fish Habitat

The new regulations revise fishery-specific regulations at § 660.381 (limited entry trawl fishery,) and § 660.382 (limited entry fixed gear fishery,) to list the EFH closed areas that apply to participants in each fishery. Listing EFH closed areas in these sections does not alter the EFH closed area regulations or application to these fisheries. Rather, it ensures that each of these sections of the regulations contain all of the closed area management measures for each fishery. EFH closed areas are currently listed only in the prohibitions section at § 660.306. These changes are primarily intended to make the Federal groundfish regulations more clear for the fishing public.

#### When the Limited Entry Permit is in Unidentified Status

Under new regulations, a limited entry permit owner may continue to designate the vessel registration for a permit as "unidentified," meaning that no vessel has been identified as registered for use with that permit and no vessel is authorized to use a permit with the vessel registration designated as "unidentified." However, a vessel owner who removes a permit from his vessel and registers that permit as "unidentified" is no longer exempt from VMS requirements unless specifically authorized and approved under permit transfer exemption.

More Than One Type of Trawl Gear On Board

The following restrictions apply to trawl vessels operating north of 40°10' N. lat.:

A vessel may not have both groundfish trawl gear and non-groundfish trawl gear onboard simultaneously. A vessel may not have both bottom trawl gear and midwater trawl gear onboard simultaneously. A vessel may have more than one type of limited entry bottom trawl gear on board, either simultaneously or successively, during a cumulative limit period.

The following restrictions apply to vessels operating south of 40°10' N. lat.:

A vessel may not have both groundfish trawl gear and non-groundfish trawl gear onboard simultaneously. A vessel may not have both bottom trawl gear and midwater trawl gear onboard simultaneously. A vessel may not have small footrope trawl gear and any other type of bottom trawl gear onboard simultaneously.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Lockhart". The signature is fluid and cursive, with the first name "Frank" written in a larger, more prominent script than the last name "Lockhart".

Frank Lockhart

Assistant Regional Administrator

Enclosure